

REMARKS

This paper is responsive to the Non-Final Office Action mailed on December 29, 2005. Reconsideration of this application is respectfully requested. Claims 1-26 are currently pending in this application. Claims 1, 11 and 14 are currently amended. Claims 2, 6, and 10-20 are previously presented. Dependent claims 21-26 are new. Claims 1, 11 and 14 remain under consideration and are independent. No new matter is added.

Rejections under §103

Claims 1-3 and 7-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles (U.S. Patent No. 3,049,729) in view of Poole (UK Patent Application No. 2 172 198 A).

Claims 1-3, 8-14, and 17-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Propst (U.S. Patent No. 2,827,952) in view of Poole (UK Patent Application No. 2 172 198 A).

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles (U.S. Patent No. 3,049,729) in view of Poole (UK Patent Application No. 2 172 198 A) and further in view of Saputo (U.S. Patent No. 4,734,946).

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles (U.S. Patent No. 3,049,729) in view of Poole (UK Patent Application No. 2 172 198 A) in view of Saputo et al. (U.S. Patent No. 4,734,946) and further in view of Bellows et al. (U.S. Patent No. 6,557,191).

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles (U.S. Patent No. 3,049,729) in view of Poole (UK Patent Application No. 2 172 198 A) in view of Saputo (U.S. Patent No. 4,734,946) in view of Bellows et al. (U.S. Patent No. 6,557,191) and further in view of Wallace et al. (U.S. Patent No. 2,687,537).

Response to rejections under §103

Applicant hereby traverses the rejections under §103 and respectfully requests reconsideration thereof in view of remarks set forth below.

In the Final Office Action dated May 19, 2005, the Examiner stated that the term “integral is sufficiently broad to embrace construction united by such means as fastening and welding”. Therefore, applicant amends independent claims 1, 11 and 14 to replace “integrally” with “unitarily” to more precisely point out that the pattern on the outer surface of the sidewall, and the sidewall are formed from a unitary piece of material. Applicant submits that the term “unitarily” in amended claims 1, 11 and 14 clarifies the previously intended meaning of “integrally” to exclude construction by means of attachment such as fastening or welding. Therefore, the amendment to claims 1, 11 and 14 obviates any previous rejections made by the Examiner that depend on the combination of Broyles, Poole and Propst to show attachment.

Applicant submits that Broyles, Poole and Propst, alone or in combination, fail to teach or suggest the elements of the claimed invention. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) “All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).”

The Non-Final Office Action states that both Broyles and Propst “lack the use of a mattress foundation having at least one sidewall outer surface with a pattern...formed thereon...” The Office Action asserts that “...Poole teaches a plurality of frame units (10, 20, 39, 40) each including a pattern (54, 56, 59) attached thereto...” Applicant traverses the present assertion. Poole clearly characterizes 54, 56, and 59 as decorative panels with relief motives, not patterns. (see page 1, line 127—page 2, line 14). Even if one were to construe the decorative panels as patterns, these patterns “are attached to the frame units (10, 20, 39, 40) by means of tape, glue or clips.” (see page 1, line 128). Applicant submits that Broyles, Propst and Poole, alone or in combination, do not teach or suggest a “sidewall” having an “outer surface include[ing] a pattern unitarily formed with the sidewall” as recited in independent claims 1 and 11. Instead, the patterns (“decorative panels”) in

Poole are merely "attached" (see page 1, line 127 and page 2, line 1) or "affixed" (see page 2, line 5) and therefore are not "unitarily formed" with the sidewall as recited in independent claims 1, 11 and 14.

Furthermore, the combination of Saputo et al., Bellows et al. and Wallace et al. with the above references fails to teach all of the elements of amended independent claims 1, 11 and 14.

Conclusion

At least for these reasons, neither Broyles or Propst or Poole or Saputo or Bellows or Wallace, taken either alone or in combination, teach or suggest the features recited in claims 1, 11, and 14. Accordingly, these references do not establish a prima facie case of obviousness with respect to claims 1, 11 and 14. Therefore, claims 1, 11, and 14 are non-obvious with respect to the art of record and should be allowed. Claims 2-10, 12-13, and 15-22 depend, directly or indirectly, from claims 1, 11, and 14 and are also patentable for at least for the same reasons that claims 1, 11, and 14 are patentable. In view of the above amendment, applicant believes the pending application is in condition for allowance.

We believe that we have appropriately provided for fees due in connection with this submission. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P02-085 from which the undersigned is authorized to draw.

Dated: March 29, 2006

Respectfully submitted,

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